

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT
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S.D. OF N.Y.W.P.

-----X
MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
108.41.169.182,

Defendant.
-----X

Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

14 CIV. 8039

JUDGE BRICCETTI

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address
108.41.169.182, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the
“Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and


(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Jacqueline M. James", written over a horizontal line.

Jacqueline M. James, Esq. (1845)

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Attorneys for Plaintiff

File Hashes for IP Address 108.41.169.182

ISP: Verizon FiOS

Physical Location: New City, NY

Hit Date UTC	File Hash	Title
09/02/2014 11:25:37	BDEBC6312761D8E5223135F25155CE1730D74E5F	Tiffanys Tight Ass
08/20/2014 14:42:33	63FC12CDDF5DBE0304B7EBD6AC3B0435D01B358C	For Your Eyes Only
07/07/2014 11:20:12	8D357CC8A76374C2534F5B6C92DFA6373DD18A48	Coming Late
07/07/2014 02:38:34	02744D186E0956E552C9AD10D76F915C46AA2D0C	Chloe Loves Carl Part 2
06/03/2014 10:49:34	52547B96DD0BDFB178E1718D81B159D10A5800C1	Two By Two
06/03/2014 10:39:10	E78047F304EA7B1BE0A090AD6319FDC6288B3800	Just Watch Part 2
06/03/2014 10:36:37	6EC4EAC1DF8D6C9F6A7C69FB03130A8273DBACF2	Epic Love
06/03/2014 05:15:46	9B2D98987560366CA5F58EC444BC76A49A868BA1	Meet My Lover From Austria
05/15/2014 07:19:01	2245EB2CF65B3C68746DD467777C1AC6AA7DA42E	A Thought of You Part 2
04/21/2014 23:10:36	D7967F3B32132CF925D535059A208B2FA4DEB59F	Group Sex
04/14/2014 23:27:58	65A94886F80F754C8920E2B13DE0DA0B59DD9BD8	Rendezvous
04/06/2014 20:54:12	BE8D1D6FC734C53D97F77FDE5769D86B2DE01DCF	Floating Emotions
03/29/2014 17:52:05	AD3F53027CB90D4B3D4E1A6D35C2A3FDC210830C	My Days in Rome
03/26/2014 10:12:45	8C4D310EB756F6C373B0703F789D1C51E3D13A87	All About Anna
03/24/2014 03:26:49	A1AD1EFC25ECACCAF835F06862CEB5EC40D1289F	Deep Blue Passion
03/18/2014 11:18:28	D0C370A2CE5A1D80F4D913E2214E997EB801D658	All Oiled Up
03/18/2014 10:27:22	B5B43E4DB872B1542BE930D603EE869ECBF0AE6D	Trophy Wife
03/10/2014 05:23:31	6C3CA4F93DC64C8A1EAF8DB79ECCC1EAD1634177	Making Music
03/10/2014 03:46:21	8C6F7B93472842C4DBD081201056822BEF60C625	Sweet Dreamers
02/26/2014 04:14:31	82757EE5781DBA912960230FB84F9584B15C26E9	Just the Three of Us
02/26/2014 03:34:33	04A0A1ED0684867A1CF36283CBED7DA1A1B0F811	Feeling Frisky
02/09/2014 22:32:48	85E12154C5682384996C362A4F88F18E29252F5F	Submissive Seduction

EXHIBIT A

SNY6

Hit Date UTC	File Hash	Title
02/09/2014 21:39:30	6660A99B1A6F10B61422A12BB291E574E8B88DF0	Pretty Little Belle
02/03/2014 04:21:52	225411BA06B97B0EBC217138030D5E7863FFEBE4	Risky Business
02/03/2014 04:21:41	0C6F9543794ABF412665C0D62D8F28937D07DB63	A Hot Number
01/27/2014 04:01:26	2DD8681E585A4C365B2BC5C1FDF5D642B1A3CABF	So Young
01/23/2014 05:05:55	C0624BD9EEFC377EE4EDEB51362EC52876ACFA2B	Get Wild at Home
01/18/2014 22:48:03	5FFD111B645C6FBB09011561D4429404574D008C	Mile High Club
01/13/2014 10:18:30	9C15AAB6DE602840D5C7FC02459384270FEB32A6	Playing Dress Up
01/07/2014 00:23:59	185DBF8520702D7E84EBEF4261360E1DA2185F29	In for the Night
12/31/2013 00:01:53	4C8FB3CEF10089626BB2960266674052E174EC2F	Photo Finish
12/31/2013 00:01:00	A54ED12E9024858D296309B1A066FD2D93094B54	No Turning Back Part #2
12/27/2013 03:39:51	E4BE8E720C61D26AD1C4D01C44CEEFA77DF24D92	Apertif Our Style
12/19/2013 22:42:26	FD0B269279B7F1330CE463A47F61C4998D4D1F2D	Model Couple on Vacation
12/13/2013 12:14:48	EA9871DB824159E8431575BE1EF3965DD0C6D0C6	Good Night Kiss
12/13/2013 11:39:33	C9078051580A5D0C1AF2BFEEA20A8D1F905935EF	Lying Around
12/13/2013 11:10:27	4CC36EB333221192823BE772CA0D3C7B2E0D873A	Ready for Love
12/03/2013 23:35:37	865F3E396BEC22834ACEAFF92BD87A9C75A71E9E	So Right Its Wrong
11/22/2013 11:39:38	A9077805A66929F98F4622D28940C637651671B7	High School Dropouts
11/22/2013 11:05:00	18B23464E61B4D118F9E285337BC49B3B246BCB5	LA Plans
11/04/2013 00:08:29	F84E7BD9064DC07A14CFD0658A4F3600C3C656E1	Blindfold Me Part #2
10/28/2013 06:15:37	C82F20394FAAFC5199712AF95D0E988552F2EC4B	Bohemian Rhapsody
10/22/2013 10:51:14	B83B2B451FFF165795F5E6EF18292168282C6359	Grow Up With Me

Total Statutory Claims Against Defendant: 43

Copyrights-In-Suit for IP Address 108.41.169.182

ISP: Verizon FiOS

Location: New City, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
A Hot Number	PA0001878456	01/30/2014	02/18/2014	02/03/2014
A Thought of You Part 2	PA0001895665	05/13/2014	05/16/2014	05/15/2014
All About Anna	PA0001886195	03/25/2014	04/02/2014	03/26/2014
All Oiled Up	PA0001885187	03/15/2014	03/24/2014	03/18/2014
Apertif Our Style	PA0001874522	12/23/2013	12/30/2013	12/27/2013
Blindfold Me Part #2	PA0001867890	11/03/2013	11/06/2013	11/04/2013
Bohemian Rhapsody	PA0001867584	10/23/2013	10/25/2013	10/28/2013
Chloe Loves Carl Part 2	PA0001906561	07/05/2014	07/14/2014	07/07/2014
Coming Late	PA0001904286	06/19/2014	06/24/2014	07/07/2014
Deep Blue Passion	PA0001885168	03/21/2014	03/24/2014	03/24/2014
Epic Love	PA0001898091	05/25/2014	06/06/2014	06/03/2014
Feeling Frisky	PA0001880671	02/22/2014	02/27/2014	02/26/2014
Floating Emotions	PA0001887126	04/05/2014	04/07/2014	04/06/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/20/2014
Get Wild at Home	PA0001877470	01/22/2014	01/31/2014	01/23/2014
Good Night Kiss	PA0001872970	12/08/2013	12/11/2013	12/13/2013
Group Sex	PA0001892182	04/19/2014	04/29/2014	04/21/2014
Grow Up With Me	PA0001866185	10/17/2013	10/19/2013	10/22/2013
High School Dropouts	PA0001871934	11/21/2013	11/29/2013	11/22/2013
In for the Night	PA0001874670	01/06/2014	01/06/2014	01/07/2014
Just the Three of Us	PA0001880670	02/21/2014	02/27/2014	02/26/2014

EXHIBIT B

SNY6

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Just Watch Part 2	PA0001902964	05/27/2014	06/06/2014	06/03/2014
LA Plans	PA0001869248	11/19/2013	11/22/2013	11/22/2013
Lying Around	PA0001872754	12/10/2013	12/15/2013	12/13/2013
Making Music	PA0001883769	03/07/2014	03/22/2014	03/10/2014
Meet My Lover From Austria	PA0001898094	05/17/2014	06/06/2014	06/03/2014
Mile High Club	PA0001877249	01/16/2014	01/26/2014	01/18/2014
Model Couple on Vacation	PA0001874613	12/17/2013	12/26/2013	12/19/2013
My Days in Rome	PA0001886187	03/28/2014	04/02/2014	03/29/2014
No Turning Back Part #2	PA0001874525	12/27/2013	12/30/2013	12/31/2013
Photo Finish	PA0001874616	12/29/2013	01/05/2014	12/31/2013
Playing Dress Up	PA0001874742	01/12/2014	01/15/2014	01/13/2014
Pretty Little Belle	PA0001878425	02/09/2014	02/13/2014	02/09/2014
Ready for Love	PA0001872968	12/05/2013	12/07/2013	12/13/2013
Rendezvous	PA0001889397	04/12/2014	04/15/2014	04/14/2014
Risky Business	PA0001878455	02/01/2014	02/18/2014	02/03/2014
So Right Its Wrong	PA0001872084	12/01/2013	12/04/2013	12/03/2013
So Young	PA0001877472	01/25/2014	01/31/2014	01/27/2014
Submissive Seduction	PA0001878420	02/07/2014	02/13/2014	02/09/2014
Sweet Dreamers	PA0001883771	03/09/2014	03/24/2014	03/10/2014
Tiffanys Tight Ass	PA0001912772	08/30/2014	09/17/2014	09/02/2014
Trophy Wife	PA0001883767	03/05/2014	03/22/2014	03/18/2014
Two By Two	PA0001898093	05/23/2014	06/06/2014	06/03/2014

Total Malibu Media, LLC Copyrights Infringed: 43

EXHIBIT B

SNY6